

LOUISIANA PUBLIC SERVICE COMMISSION
MINUTES FROM JANUARY 13, 2010
OPEN SESSION

MINUTES OF JANUARY 13, 2010 OPEN SESSION OF THE LOUISIANA PUBLIC SERVICE COMMISSION HELD IN BATON ROUGE, LOUISIANA. PRESENT WERE CHAIRMAN LAMBERT BOISSIERE, VICE CHAIR JIMMY FIELD, COMMISSIONERS FOSTER CAMPBELL, ERIC SKRMETTA AND CLYDE HOLLOWAY. ALSO PRESENT WAS EVE KAHAO GONZALEZ.

Open Session of January 13, 2010, convening at 10:02 A.M. and adjourning at 2:06 P.M., Natchez Room, 602 N. 5th Street, 1st Floor, Baton Rouge, Louisiana, with the above-named members of the Commission and Secretary Eve Kahao Gonzalez.

Ex. 1 Announcements

Commissioner Field reminded everyone of the January 20th, 2010 Entergy Regional State Committee meeting in Little Rock, Arkansas.

Ex. 2 Election of Chairman and Vice Chairman

On motion of Commissioner Skrmetta, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to elect Commissioner Boissiere as Chair and Commission Field as Vice Chair for 2010.

Ex. 3 Setting of 2010 meeting dates

On motion of Commissioner Skrmetta, seconded by Commission Boissiere, and unanimously adopted, the Commission voted to accept the dates as circulated subject to any changes requested by a Commissioner.

Commissioner Campbell requested that the May 12, 2010 B&E be in Bossier City, Louisiana.

Commissioner Holloway offered a substitute motion to hold a meeting in August. However, the motion died for lack of a second.

Ex. 4 **U-29702 c/w U-27866-B** - Southwestern Electric Power Company (Shreveport, LA), ex parte. In re: Application of Southwestern Electric Power Company for certification of contracts for the purchase of capacity and to purchase, operate, own and install peaking, intermediate and baseload generating facilities in accordance with the Commission's General Order dated September 20, 1983. **CONSOLIDATED WITH** Southwestern Electric Power Company, (Shreveport, LA), ex parte. In re: Application of Southwestern Electric Power Company for the certification of a contract for the purchase of capacity in accordance with the Commission's General Order dated September 20, 1983.

On motion of Commissioner Campbell, seconded by Commissioner Field, and unanimously adopted, the Commission voted to accept the Staff Recommendation and adopt the Settlement entered into between SWEPCO and Staff subject to all of the ratepayer protection mechanisms incorporated in that settlement.

Ex. 5 **T-31188** - Louisiana Public Service Commission vs Rain for Rent (Geismar, Louisiana) In re: Alleged violation of Louisiana Revised Statutes Title 45:161 through 180.1 as amended, by operating Intrastate without LPSC authority on two counts; allegedly occurring on or about November 9, 2009.

In re: Discussion and Possible Vote on Stipulated Agreement pursuant to Rule 57.

On motion of Commissioner Skrmetta, seconded by Commissioner Holloway, with Commissioners Boissiere and Field concurring and Commissioner Campbell temporarily absent, the Commission voted to exert its original and primary jurisdiction pursuant to Rule 57.

On motion of Commissioner Holloway, seconded by Commissioner Skrmetta, with Commissioners Boissiere and Field concurring and Commissioner Campbell temporarily absent, the Commission voted to accept the Staff Recommendation and adopt the agreement between Staff and the Carrier, wherein the Carrier agreed to plead guilty, agreed to pay a fine of \$2,000.00, per count, with \$1,000.00, per count of the fine being suspended, conditioned on not committing any additional violations within 12 months of the date of the Order, and further agreed to pay a citation fee of \$25.00. The unsuspended portion of the fine and the citation fee, for a total of \$2,025.00, are to be paid within 15 days of the issuance of the Order herein.

Ex. 6 **T-31203** - Louisiana Public Service Commission vs Kim and Jeffery M. Vincent and J K Trucking (Marrero, Louisiana) In re: Alleged violation of Louisiana Revised Statutes Title 45:161 through 180.1 as amended, by operating Intrastate without L.P.S.C. authority on one count; allegedly occurring between November 17, 2009 and November 18, 2009.

In re: Discussion and Possible Vote on Stipulated Agreement pursuant to Rule 57.

On motion of Commissioner Skrmetta, seconded by Commissioner Field, with Commissioners Boissiere and Holloway concurring and Commissioner Campbell temporarily absent, the Commission voted to exert its original and primary jurisdiction pursuant to Rule 57.

On motion of Commissioner Skrmetta, seconded by Commissioner Boissiere, with Commissioners Field and Holloway concurring and Commissioner Campbell temporarily absent, the Commission voted to accept the Staff Recommendation and accept the agreement between Staff and the Carrier, wherein the Carrier agreed to plead guilty, agreed to pay a fine of \$2,000.00, per count, with \$1,500.00, per count of the fine being suspended, conditioned on not committing any additional violations within 12 months of the date of the Order, and further agreed to pay a citation fee of \$25.00. The unsuspended portion of the fine and the citation fee, for a total of \$525.00, are to be paid within 15 days of the issuance of the Order herein.

Ex. 7 **T-31136** - Louisiana Public Service Commission vs Turkey Creek Trucking, Inc. (Haynesville, Louisiana). In re: Cancellation of Common Carrier Certificate Number 7213 for failure to obtain annual vehicle identification stamps for 2009 with the Commission as required by LRS 45:169 and/or 180.1; and to pay a citation fee of TWENTY FIVE DOLLARS (\$25.00).

Last Month's Ex. 5

On motion of Commissioner Campbell, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept the ALJ Recommendation as to the finding of guilt, but reject the recommendation to cancel Certificate No. 7213 and give the Company 15 days to purchase the 2009 stamp and pay the \$25 citation fee.

Ex. 8 **R-30579** – Louisiana Public Service Commission, ex parte. In re: Discussion on amending General Order dated March 25, 2003, with regards to nonconsensual towing and recovery rates, including but not limited to the 15% surcharge on equipment rental and labor subcontracted for, as provided for in Attachment “A”, Section E 4. *In addition, the Commission will review and assess the entire General Order and compare the economic studies performed in 1999 and the economic study recently completed and submitted to the Commission on July 10, 2008, by the Towing & Recovery Professionals of Louisiana, Inc., to review all rates, including but not limited to all hourly rates.*

In re: Discussion and possible vote on proposed order.

Last Month's Ex. 7

PASSED

Commissioner Field requested that Commissioner Boissiere have any meetings he feels necessary before next month in order to have a vote at the February meeting.

Ex. 9 **U-31174** – Entergy Gulf States Louisiana, L.L.C. and Entergy Louisiana, LLC, ex parte. In re: Application to Recover the Cost of Emissions Allowances Related to Compliance with the Clean Air Interstate Rule for the Period January through May 2009.

In re: Discussion and Possible Vote on Hiring Outside Consultant.

On motion of Commissioner Field, seconded by Commissioner Skrmetta, with Commissioners Boissiere and Holloway concurring and Commissioner Campbell temporarily absent, the Commission voted to retain the consulting firm of Henderson Ridge to assist Staff in this matter for a budget of \$41,625 in fees and \$4,200 in expense for a total of \$45,825.

- Ex. 10 **U-31196** - Entergy Louisiana, LLC and Entergy Gulf States Louisiana, L.L.C., ex parte. In re: Application of Entergy Louisiana, LLC for Approval to Purchase Power Block Two of the Acadia Energy Center, and Joint Application of Entergy Louisiana, LLC and Entergy Gulf States Louisiana, L.L.C. for Approval to Participate in Certain Related Contracts for the Purchase of Capacity and Electric Power and for Cost Recovery.

In re: Discussion and Possible Vote on Hiring Outside Consultant.

On motion of Commissioner Skrmetta, seconded by Commissioner Field, with Commissioner Campbell concurring and Commissioners Boissiere and Holloway objecting, the Commission voted to retain the consulting firm of Exeter Associates to assist the Staff in this matter for a budget of \$62,500 in fees and \$5,000 in expense for a total of \$67,500.

- Ex. 11 **U-30192 Phase III** - Entergy Louisiana, LLC, ex parte. In re: Application of Entergy Louisiana, LLC for Approval to Repower Little Gypsy Unit 3 Electric Generating Facility and for Authority to Commence Construction and for Certain Cost Protection and Cost Recovery.

In re: Discussion and Possible Vote on Hiring Outside Counsel.

Commissioner Skrmetta requested this item be passed due to the short time frame in which this RFP was issued and responses were due. He also requested that the bidding be reopened for an additional period of time.

PASSED

- Ex. 12 **U-30945** - French Settlement Water Company, Inc., ex parte. In re: Request for an increase in rates for water service in Livingston and Tangipahoa Parishes.

In re: Discussion and Possible Vote on Uncontested Joint Stipulation.

On motion of Commissioner Skrmetta, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to accept the Staff Recommendation and adopt the Joint Stipulation entered into by Staff and the Company pursuant to the conditions read into the record.

Commissioner Skrmetta asked that Staff look into breaking out the federal unfunded mandated costs.

Commissioner Holloway complimented French Settlement Water Company on being very efficient and doing a great job.

- Ex. 13 **U-31157** - Cleco Power LLC, ex parte. In Re: Application of Cleco Power LLC for Certificate of Public Convenience and Necessity For: (i) Authorization for Cleco Power LLC to Acquire Power Block One and an Undivided 50% Ownership Interest in the Common Facilities of the Acadia Power Station from Acadia Power Partners, LLC, (ii) Authorization to Recover in it Jurisdictional Rates the Charges that Cleco Power LLC Incurs to Acquire, Own and Operate the Acadia Facility; and (iii) Expedited Treatment.

In re: Consideration of Proposed Uncontested Stipulated Settlement.

On motion of Commissioner Holloway, seconded by Commissioner Skrmetta, with Commissioners Field and Campbell concurring and Commissioner Boissiere temporarily absent, the Commission voted to accept the Staff Recommendation and approve the Proposed Uncontested Stipulated Settlement including all of the ratepayer protection and hold harmless

mechanisms.

Ex. 14 **U-30874 - Water Treatment & Controls Company d/b/a Peoples Water Service Company of Bastrop (Bastrop, Louisiana), ex parte. In re: Application for an increase in rates for water and water service in the City of Bastrop and its environs.**

In re: Discussion and Possible Vote on Uncontested Proposed Stipulated Agreement.

At the request of Commissioner Campbell.

Last month's Ex. 12

Commissioner Campbell offered a motion to reject the stipulated settlement and have Staff reexamine Peoples request, specifically taking into consideration the economic climate of Morehouse Parish and what is prudent behavior and an appropriate return in such an economic climate. This motion died for lack of a second.

Commissioner Holloway offered a substitute motion to adopt the Alternative Proposal Staff and Peoples established pursuant to the request by Commissioners Field and Holloway at the November B&E. This motion died for lack of a second.

Commissioner Skrmetta stated that if the Company agreed to remove the \$204,271 in replacement costs he would be willing to vote for the increase today. Commissioner Field concurred.

After discussions with Mr. Jim Ellis, attorney for Peoples Water, the Commission directed Staff and the Company to further examine whether any of the \$204,271 requested for the replacement of mains could be deferred to a later date and come back next month with the results of this analysis.

Ex. 15 **R-31214 - LPSC ex parte, In re: Adoption of rules to implement the Commission's mediation program.**

In re: Report from Staff regarding Status of Mediation Rulemaking.

Deputy General Counsel Brandon Frey updated the Commissioners on the status of this rulemaking. Mr. Frey stated that he hopes to issue a proposed rule in the next few weeks so that he can receive comments and have this item ready for a vote in March.

Ex. 16 Discussion and possible vote regarding participation of in-house staff attorneys in cases involving outside counsel and consultants.

At the request of Commissioner Skrmetta.

Last Month's Ex. 17

PASSED

Ex. 17 Entergy Gulf States Louisiana, L.L.C. and Entergy Louisiana, LLC, ex parte. In re: Joint Application for approval of an increase in funding for decommissioning for River Bend and Waterford 3 Nuclear Facilities.

In re: Request to issue RFPs for outside consultants.

Commissioner Skrmetta discussed with Mark Kleehammer and Karen Freese, both of Entergy Louisiana, LLC and Entergy Gulf States, L.L.C., some of the issues as to why this case has come about. Commissioner Skrmetta requested that Mr. Kleehammer have Entergy's advisors and trustees available the next time this item is discussed.

On motion of Commissioner Skrmetta, seconded by Commissioner Field, and unanimously adopted, the Commission voted to grant Staff's request to issue RFPs for outside consultant in this matter.

Ex. 18 Report from Staff regarding AT&T retail service quality.

At the request of Commissioner Field.

General Counsel Dennis Weber stated that Staff was in the process of collecting and compiling data, which will be sent to each Commissioner upon completion. Commissioner Field stated that he hoped to have this done by next month.

Ex. 19 Report from Staff regarding Broadband issues.

Deputy General Counsel Brandon Frey gave a report on various Broadband issues raised by the Commission at the December B&E meeting.

Ex. 20 Possible Executive Session pursuant to LA R.S. 42:6 to discuss budget issues.

On motion of Commissioner Skrmetta, seconded by Commissioner Field, and unanimously adopted, the Commission voted to go into Executive Session.

On motion of Commissioner Skrmetta, seconded by Commissioner Field, and unanimously adopted, the Commission voted to come out of Executive Session.

Ex. 21 1) Reports
2) Resolutions
3) Discussions

On motion of Commissioner Skrmetta, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to adjourn the meeting.

MEETING ADJOURNED

The next Business and Executive Session will be held February 10, 2010 at 9:00 a.m. in Baton Rouge, Louisiana.